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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91195961
Party	Plaintiff ELVH, Inc.
Correspondence Address	JEFFREY R COHEN MILLEN WHITE ZELANO & BRANIGAN 2200 CLARENDON BLVD, SUITE 1400 ARLINGTON, VA 22201 UNITED STATES docketing@mwzb.com,cohen@mwzb.com, mandell@mwzb.com
Submission	Motion for Summary Judgment
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Date	04/13/2011
Attachments	Motion 4-13-2011.pdf ( 59 pages )(3233465 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ELVH, INC.	}	Application Ser. No. 77919644
	}	and Application Ser. No.
	}	77919645
	}	Marks: KELLYVANHALEN
Opposer,	}	
v.	}	Opposition No. 91195961
KELLY VAN HALEN	}	
	}	
Applicant.	}	

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**OPPOSER'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Opposer hereby moves for partial summary judgment under Rule 56 of the Federal Rules of Civil Procedure and Trademark Rule 2.127, 37 CFR § 2.127. Summary judgment is appropriate because there is no genuine issue of material fact in dispute. As shown below, there is a clear likelihood of confusion between Opposer's mark VAN HALEN for goods identified in International Class 25 and Applicant's mark KELLYVANHALEN for goods in International Classes 24 and 25. The marks and goods overlap as well as the potential purchasers and channels of trade. This clear overlap renders summary judgment appropriate.

**STATEMENT OF FACTS**

Opposer is the owner of four (4) registrations containing, in whole or in part, the term VAN HALEN, including: (a) Registration No. 2866540 issued July 27, 2004 for the mark VAN HALEN for clothing namely, shorts; caps; hats; jerseys; blouses; shirts; tank-tops; T-shirts, namely long sleeve and short sleeve T-shirts; polo shirts; woven and knit

shirts; thermal shirts; sweaters; jogging and warm-up suits; sweat shirts; sweat pants; sweat bands; headbands; bandanas; jeans; pants; ties; jackets; gloves; scarves; neckwear (the “540 Registration”); (b) Registration No. 3701926 issued October 27, 2009 for the mark VAN HALEN & Design for (*inter alia*) clothing, namely caps, hats, t-shirts (the “926 Registration”), both as shown by the records of the Patent and Trademark Office submitted with the First Amended Notice of Opposition.

Applicant is the owner of Application No. 77919644 filed January 25, 2010 for the mark KELLYVANHALEN for (*inter alia*) bed blankets; blanket throws; children’s blankets and lap blankets (“Class 24 Goods”); Bathing suits; Blouses; Coats; Coverups; Dresses; Hats; Jackets; Jeans; Leggings; Lounge pants; Pajamas; Pants; Ponchos; Robes; Scarves; Shirts; Sweaters and Vests (“Class 25 Goods”).

Opposer’s ‘540 Registration and Applicant’s mark both appear as standard characters in the drawing of the mark. Applicant’s application was filed on the basis of an intent to use on January 25, 2010.

### ARGUMENT

#### I. Standard for Summary Judgment

The granting of summary judgment under Fed. R. Civ. P. 56 is appropriate where the pleadings, depositions, answers to interrogatories, admissions on file, together with any supporting affidavits, show that there is no genuine issue of material fact in dispute, and that the moving party is entitled to judgment in its favor as a matter of law. *See Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). “[T]he dispute about a material fact is ‘genuine,’ ... if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby*, 477 U.S. 242, 248 (1986). “[T]he mere

existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there is no *genuine* issue of *material* fact.” *Id.* at 247-48 (emphasis in original). The nonmoving party must do more than “simply show that there is some metaphysical doubt as to the material facts.” *Matsushita Electric Industrial Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). “[T]he nonmoving party must come forward with ‘specific facts showing that there is a *genuine issue for trial*.’” *Id.* at 587 (emphasis in original, quoting Rule 56(e) pre-2007 amendment). “If the evidence [favoring the nonmoving party] is merely colorable, or is not significantly probative, summary judgment may be granted.” *Anderson*, 477 U.S. at 249-50 (citations omitted).

A determination that a likelihood of confusion exists is appropriate for resolution by summary judgment. *See Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 64 USPQ2d 1375 (Fed. Cir. 2002); *Hewlett-Packard Dev. Co, L.P. v. Vudu, Inc.*, 92 USPQ2d 1630 (TTAB 2009); *Apple Computer, Inc. v. TVNET.net, Inc.*, 90 USPQ2d 1393 (TTAB 2007); *Venture Out Properties LLC v. Wynn Resorts Holdings LLC*, 81 USPQ2d 1887 (TTAB 2007); and *Fram Trak Industries, Inc. v. WireTracks LLC*, 77 USPQ2d 2000 (TTAB 2006).

## II. Likelihood of Confusion

The determination of whether a likelihood of confusion exists is based on the thirteen *du Pont* factors to the extent evidence relevant to any factor is of record. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1844-45 (Fed. Cir. 2000) (citing *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563

(CCPA 1973)). The “two key factors are the degree of similarity of the parties’ marks and the degree of similarity of their respective goods.” *Fram Trak*, 77 USPQ2d at 2005 (citing *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24 (CCPA 1976)).

A. *Similarity of the Goods*

It is not necessary that the goods be identical or even competitive in order to find that the goods are related for purposes of a likelihood of confusion analysis. That is, the issue is not whether consumers would confuse the goods themselves, but rather whether they would be confused as to the source of the goods. *See In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984). It is sufficient that the goods be related in some manner, or that the circumstances surrounding their use be such, that they would be likely to be encountered by the same persons in situations that would give rise, because of the marks used thereon, to a mistaken belief that they originate from or are in some way associated with the same source or that there is an association or connection between the sources of the respective goods. *See In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386 (TTAB 1991); and *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978).

Here, many of Applicant’s Class 25 Goods are identical to those contained in Opposer’s ‘540 Registration, namely, blouses, hats, jackets, jeans, pants, scarves, shirts and sweaters. Accordingly, this factor militates in favor of Opposer.

It is proper to compare Applicant’s Class 25 goods with Opposer’s Class 25 goods and then to apply the presumptions that flow from this comparison.

The authority is legion that the question of registrability of an applicant’s mark must be decided on the basis of the identification of goods set forth in the application regardless of what the record may reveal as to the particular nature of an applicant’s goods, the

particular channels of trade or the class of purchasers to which sales of the goods are directed.

*Hewlett-Packard Dev.*, 92 USPQ2d at 1633. *See also Cunningham*, 55 USPQ2d at 1846.

Because the goods here as recited are identical, they must be deemed to move in the same channels of trade and to be available to the same purchasers. *See Hewlett-Packard Dev.*, 92 USPQ2d at 1633; *Venture Out Properties*, 81 USPQ2d at 1893; *Fram Trak Industries*, 77 USPQ2d at 2006. Additionally, because Opposer's registration covers a variety of products (at least twenty-nine (29) items of clothing or related items), "this makes it more likely that purchasers, ... are likely to believe that [applicant's] product is also being produced or sponsored by opposer." *Uncle Ben's Inc. v. Stubenberg Int'l, Inc.*, 47 USPQ2d 1310, 1313 (TTAB 1998).

The relatedness of Applicant's Class 24 goods to Opposer's goods is evidenced by the fact that Applicant itself uses, and/or has a bona fide intention to use, Applicant's mark for both its Class 24 Goods and goods like those identified in Opposer's registrations. To wit:

Applicant has used the KellyVanHalen mark in commerce continuously since November, 2009 in connection with its goods and services. Applicant has used the mark in connection with the sale of its goods and services in the United States as well as in Canada, Japan, Korea and Malaysia. Applicant will maintain its current use of the mark and will continue to expand such use.

*See Applicant's Initial Disclosures, Para. II.3, attached hereto as Exhibit 1.*

Applicant has a bona fide intention to use, and with regard to certain of the goods and services already has begun to use, Applicant's Mark in connection with all of the goods and services described in the applications which are the subject of this proceeding, namely . . . bed blankets; blanket throws; children's blankets; lap blankets in international class 24; bathing suits; blouses; coats; coverups; dresses; hats; jackets; jeans; leggings; lounge pants; pajamas; pants; ponchos; robes; scarves; shirts; sweaters; vests, in international class 25 . . . Applicant used Applicant's Mark as early as March 2009 for pillows and throws and March 2010 for children's and adult accessories. Applicant's first intended use of the remaining goods and services is expected in 2011.

See Applicant's Responses to Opposer's First Set of Interrogatories, Nos. 1, 4, attached hereto as *Exhibit 2*.

Also, Opposer submits third-party used based registrations containing identifications of goods including Applicant's Class 24 Goods and those goods identified in Opposer's registrations. See *Exhibit 3*. Although such registrations are not evidence that the marks shown therein are in use or that the public is familiar with them, they nonetheless have probative value to the extent that they serve to suggest that the goods listed therein are of a kind which may emanate from a single source under a single mark. See *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783 (TTAB 1993); and *In re Mucky Duck Mustard Co. Inc.*, 6 USPQ2d 1467 (TTAB 1988).

The Acceptable Identification of Goods and Services Manual contains the terms "infant wearable blankets" and "wearable blankets" in Class 25. Relevant portions of the ID Manual are attached hereto as *Exhibit 4*. Accordingly, the United States Patent and Trademark Office itself, through its classification system, has recognized that blankets can be of the same type as Opposer's and Applicant's clothing goods. This should be given weight as part of the overall likelihood of confusion analysis.

Further exhibiting this connection are third party use-based applications containing Applicant's blanket goods, infant wearable blankets and/or wearable blankets, and those clothing goods identified in Opposer's (and Applicant's) registrations. See *Exhibit 5*. This suggests that these goods are of a kind that emanate from a single source under a single mark.

B. *Similarity of the Marks*

When considering the similarities in the respective marks, the identical nature of the goods, as discussed above, remains relevant. “When marks would appear on virtually identical goods or services, the degree of similarity necessary to support a conclusion of likely confusion declines.” *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 23 USPQ2d 1698, 1700 (Fed. Cir. 1992).

The marks are to be compared as to their appearance, sound, connotation and commercial impression. *Venture Out Properties*, 81 USPQ2d at 1891 (citing *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005)). “The focus is on the recollection of the average purchaser, who normally retains a general rather than a specific impression of trademarks.” *Time Warner Entertainment Co. v. Jones*, 65 USPQ2d 1650, 1660 (TTAB 2002) “[W]hile the marks are compared in their entirety, ... ‘there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entirety.’” *Venture Out Properties*, 81 USPQ2d at 1891 (quoting *In re National Data Corp.*, 753 F.2d 1056, 221 USPQ 749, 751 (Fed. Cir. 1985)). *See also Cunningham*, 55 USPQ2d at 1845 (same).

There are “strong similarities” that establish a conflict between marks consisting of a surname compared with the same surname joined with a first name. *In re SL&E Training Stable Inc.*, 88 USPQ2d 1216, 1219 (TTAB 2008) (EDELMAN and SAM EDELMAN confusingly similar). *See, e.g., In re Sawyer of Napa, Inc.*, 222 USPQ 923, 924 (TTAB 1983) (SAWYER and TOM SAWYER); *In re Conchemco, Inc.*, 185 USPQ



190 (TTAB 1974) (MEADE and BELLE MEADE); *Monocraft, Inc. v. Leading Jewelers Guild*, 173 USPQ 506 (TTAB 1974) (MONET and PAUL MONET); *Modern Shoe Co. v. B.B. Walker Shoe Co.*, 170 USPQ 530 (TTAB 1971) (WALKER and JOHNNIE WALKER).

Here, the marks are Opposer's VAN HALEN and Applicant's KELLYVANHALEN. That Opposer's mark uses two (2) words for "van halen" and Applicant's mark uses one word ("vanhalen") is immaterial. *See Time Warner Entertainment*, 65 USPQ2d at 1660 ("it is of little legal consequence that opposer uses the two-word formulation ROAD RUNNER, while applicant uses the single word ROADRUNNER"). *See also Fram Trak*, 77 USPQ2d at 2005 (WIRE TRAK and WIRETRACKS).

Opposer's mark consists of Opposer's principal's surname. Applicant's mark KELLYVANHALEN consists of the Applicant's legal name. *See Applicant's Responses to Opposer's First Set of Interrogatories*, No. 10, *Exhibit 2*. Any rights a party has to use its own name in the conduct of its business do not entitle it to use the name as a trademark on its goods when it so resembles the mark of another as to cause a likelihood of confusion or mistake. *SL&E Training Stable Inc.*, 88 USPQ 2d at 1217; *Helga, Inc. v. Helga Howie, Inc.*, 182 USPQ 629, 630 (TTAB 1974).

In the instant case, Applicant's KELLYVANHALEN incorporates the entire registered mark VAN HALEN. The first name "Kelly" in Applicant's mark modifies the surname "Van Halen", in effect telling which Van Halen it is, and therefore emphasizes the "Van Halen" portion. This would, for many customers, serve only to suggest that this may be a new or special line or variation within Opposer's VAN HALEN goods. *See*

*SL&E Training Stable Inc.*, 88 USPQ 2d at 1219. Because the marks share the surname “Van Halen”, which is the only element in the registered mark and is a clearly recognizable and prominent element in applicant’s mark, there are strong similarities between the marks in terms of appearance, sound, meaning and impression. *Id.* Additionally, it is not uncommon for a mark comprising a full name to be shortened in use to just the surname, particularly in the fashion industry. *Id.* See also *Nina Ricci S.A.R.L. v. E.T.F. Enters., Inc.*, 889 F.2d 1070, 12 USPQ 2d 1901, 1903 (Fed. Cir.1989). This trend obviously increases the likelihood of confusion here as the surnames and goods would then both be identical.

Opposer’s use of VAN HALEN is obviously an arbitrary choice as applied to clothing, and thus the mark is a conceptually strong mark. *Palm Bay Imports*, 73 USPQ2d at 1692. This mark is therefore “inherently distinctive and deserving of heightened trademark protection.” *M2 Software, Inc. v. M2 Communications, Inc.*, 450 F.3d 1378, 78 USPQ2d 1944, 1949 (Fed. Cir. 2006).<sup>1</sup> As an arbitrary mark, it “is entitled to a liberal application of the law,” *Lois Sportswear, U.S.A. Inc. v. Levi Strauss & Co.*, 799 F.2d 867, 230 USPQ 831, 834 (2d Cir. 1986) and “broad, muscular protection.” *Virgin Enterprises Limited v. Nawab*, 335 F.3d 141, 67 USPQ2d 1420, 1425 (2d Cir. 2003).

Because Opposer’s ‘540 Registration and Applicant’s mark both employ standard characters, the “analysis must assume that both parties may employ the same stylization or display of the letters in the involved marks.” *Hewlett-Packard Dev.*, 92 USPQ2d at 1632.

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<sup>1</sup> The court used the term “fanciful” mark, but that is in the same category of strength as an arbitrary mark. See *Fluid Energy Processing & Equipment Co. v. Fluid Energy, Inc.*, 212 USPQ 28, 35 (TTAB 1981).

For a likelihood of confusion, the similarities in the marks need only “suggest that the two products come from the same source (or sponsorship) or are somehow connected.” *Kimberly-Clark Corp. v. H. Douglas Enterprises, Ltd.*, 774 F.2d 1144, 227 USPQ 541, 542 (Fed. Cir. 1985) (comparing HUGGIES and DOUGIES). The Board in *Johnson Publishing Co. v. International Development Ltd.* summarized the applicable rule as follows (221 USPQ 155, 156-57 (TTAB 1982)):

Although the issue of likelihood of confusion must be judged on the basis of the facts and context of each case presented to the Board, likelihood of confusion has frequently been found where contested marks used on related products involve one mark which consists of a single word and another mark which is comprised of that same word followed by a second term. [Citations omitted.] The instant case is particularly strong for such a result because where competing marks cover identical goods and move in the same trade channels, the degree of similarity required to sustain a claim of confusion is less than might otherwise be required.

*See also In re Densi*, 225 USPQ 624, 624 (TTAB 1985) (“Thus, if the dominant portion of both marks is the same, then confusion may be likely notwithstanding peripheral differences”).

### C. *Other Factors*

Regarding other factors in the *du Pont* analysis, the lack of any evidence regarding Applicant’s good or bad faith in adopting its mark and any actual confusion is not material. *See Apple Computer*, 90 USPQ2d at 1397-98 (evidence of the latter is not necessary for a likelihood of confusion and an applicant’s good faith adoption would not establish no likelihood of confusion). Further, since Applicant only began using its mark in either March 2009 or November 2009<sup>2</sup>, there has been little time for evidence of actual confusion to come to the parties’ attention. *See Cunningham*, 55 USPQ2d at 1847; *Time Warner*, 65 USPQ2d at 1662 (“evidence of actual confusion is notoriously difficult to

come by”). Also, on information and belief, Applicant’s use of its mark, if any, has been *de minimis*, so there has been little chance of actual confusion coming to the parties’ attention.

For the routine goods involved herein, the ordinary standard of care for such inexpensive goods is applicable. “There is no evidence to suggest that purchasers of these goods are any more sophisticated than purchasers of any other retail goods.” *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991). *Cf. H.D. Lee Co. v. Maidenform Inc.*, 87 USPQ2d 1715, 1726 (TTAB 2008) (“not all of the potential consumers for outerwear and undergarments are sophisticated consumers”).

### III. Standing and Priority

Opposer’s registration of its mark, that issued over five (5) years before Applicant’s filing date and Applicant’s dates of first use as stated in Applicant’s disclosures, is of record, and therefore there is no genuine issue as to Opposer’s priority and standing. *Hewlett-Packard Dev.*, 92 USPQ2d at 1632; *Apple Computer*, 90 USPQ2d at 1396.

The current scheduling order calls for initial disclosures due by February 22, 2011. Opposer has served its initial disclosures, and thus the timing of this motion is appropriate. *See Compagnie Gervais Danone v. Precision Formulations LLC*, 89 USPQ2d 1251, 1255 n.7 (TTAB 2009).

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<sup>2</sup> Applicant’s disclosures are inconsistent on this point. *See* Applicant’s Initial Disclosures, Para. II.3, attached hereto as *Exhibit 1* and Applicant’s Responses to Opposer’s First Set of Interrogatories, Nos. 1, 4, attached hereto as *Exhibit 2*.

### CONCLUSION

A likelihood of confusion clearly arises here when the marks VAN HALEN and KELLYVANHALEN are both used on identical and related goods that move in the same trade channels and to the same type of purchasers using ordinary care for inexpensive goods. Applicant's mark simply suggests some connection, sponsorship or association between it and Opposer as the source of the products. There are no material issues in genuine dispute, and accordingly partial summary judgment with respect to Applicant's Class 25 Goods and Applicant's Class 24 goods in Opposer's favor is appropriate.

Date: April 13, 2011

By: 

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Attorneys for Opposer

Certificate of Service

This is to certify that a copy of the foregoing was served this 13<sup>th</sup> day of April 2011 by first-class mail, postage prepaid, on the following as Applicant's attorney of record:

Don Thornburgh, Esquire  
DON THORNBURGH LAW CORPORATION  
466 FOOTHILL BLVD # 220  
LA CANADA FLINTRIDGE, CA 91011-3518

By: 

Attorney for Opposer

# EXHIBIT 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK AND TRIAL APPEAL BOARD**

ELVH, Inc.,	)	
	)	Opposition No. 91195961
Opposer,	)	
	)	
v.	)	
	)	
Kelly Van Halen,	)	
	)	
Applicant.	)	
	)	
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Mark:	)	KELLYVANHALEN
	)	
Serial No.	)	77/919644, 77/919645
	)	
Filed:	)	January 28, 2010
	)	
Published:	)	June 8, 2010
	)	
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**APPLICANT'S INITIAL DISCLOSURES**

Applicant Kelly Van Halen ("Applicant") makes the following initial disclosures pursuant to Trademark Rule 2.120(a), as follows:

**I. IDENTIFICATION OF PERSONS**

Applicant discloses the following persons who may have discoverable information on the subjects identified. Applicant may use such information in support of its response to Opposer's claims in this proceeding:

1. Kelly Van Halen, an individual, is the namesake of the business which is operated using the Mark. Ms. Van Halen has participated in the design and sale of goods and services under the KellyVanHalen mark. Ms. Van Halen can be contacted through counsel of record for Applicant.



2. Applicant has no direct knowledge of Opposer, ELVH, Inc., and is unaware of the identities of the individuals or entities which comprise its ownership or management. As of the date of this document, Applicant has not received initial disclosures from Opposer or its counsel.

3. Applicant's investigation relating to the claims asserted by Opposer in the proceeding is ongoing, and therefore, Applicant may identify additional persons who may have discoverable information on the claims asserted by Opposer and/or the defenses asserted by Applicant, as such individuals become known.

## II. GENERAL INFORMATION UPON WHICH APPLICANT MAY RELY

Applicant discloses the following information which it may use in support of its response to Opposer's claims in this proceeding.

### 1. Mark Identifies a Living Person

Applicant's KellyVanHalen mark identifies a living person, namely, the Applicant, Kelly Van Halen, whose consent to the use of the name is of record.

### 2. First Use of the KellyVanHalen Mark

The first use of the KellyVanHalen mark for goods or services identified in the applications was approximately November, 2009.

### 3. Extent of Past and Current Use of the KellyVanHalen Mark

Applicant has used the KellyVanHalen mark in commerce continuously since November, 2009 in connection with its goods and services. Applicant has used the mark in connection with the sale of its goods and services in the United States as well as in Canada, Japan, Korea and Malaysia. Applicant will maintain its current use of the mark and will continue to expand such use.

4. No Evidence of Confusion

Applicant is unaware of any examples of actual confusion among consumers of the Applicant's or the Opposer's goods and services. To the contrary, Applicant is aware of numerous references to Applicant's goods and services, none of which include any indication of confusion among consumers or in the marketplace with any goods or services provided by Opposer.

5. Channels of Trade

Applicant's goods and services sold using the KellyVanHalen mark are sold directly by the Applicant and through retail channels, including the L.A. Kids Market showroom in Los Angeles, California.

6. Methods of Marketing

Applicant markets its goods and services using the services of a public relations firm called Domain.

7. Prior Board Proceedings Involving the KellyVanHalen Marks

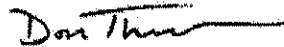
Neither Applicant nor the KellyVanHalen mark has been involved in any prior proceedings before the Board.

### III. FURTHER INFORMATION

Applicant's investigation relating to the proceeding is ongoing, and therefore, Applicant may identify additional information and documents pertinent to the claims asserted by Opposer and/or the defenses asserted by Applicant, as such information becomes known.

Dated: November 15, 2010

Respectfully submitted,  
Don Thornburgh Law Corporation  
466 Foothill Boulevard #220  
La Cañada Flintridge, CA 91011



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Don Thornburgh

Attorney for Applicant,  
Kelly Van Halen

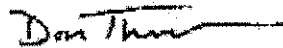
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK AND TRIAL APPEAL BOARD**

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Mark:	)	KELLYVANHALEN
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Serial No.	)	77/919644, 77/919645
	)	
Filed:	)	January 28, 2010
	)	
Published:	)	June 8, 2010
	)	
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**Proof of Service**

I hereby certify that a true and complete copy of the foregoing ANSWER has been served on the attorney of record for Opposer ELVH, Inc., at the correspondence address of record in the records of the USPTO, by mailing said copy on November 15, 2010, via First Class Mail, postage prepaid to:

Jeffrey R. Cohen, Esq.  
Millen White Zelano & Branigan  
2200 Clarendon Boulevard, Suite 1400  
Arlington, VA 22201



\_\_\_\_\_  
Don Thornburgh  
for Don Thornburgh Law Corporation

# EXHIBIT 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ELVH, Inc.,

Opposition No. 91195961

Opposer,

v.

Kelly Van Halen,

Applicant.

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Mark: KELLYVANHALEN

Serial No. 77/919644, 77/919645

Filed: January 28, 2010

Published: June 8, 2010

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**APPLICANT'S RESPONSE TO OPPOSER'S**

**FIRST SET OF INTERROGATORIES**

PROPOUNDING PARTY: ELVH, Inc.

RESPONDING PARTY: Kelly Van Halen

SET NO.: One

Applicant Kelly Van Halen ("Applicant") hereby responds, pursuant to Federal Rule of Civil Procedure 36 and 37 C.F.R. §2.120, to Opposer ELVH, Inc.'s ("Opposer") First Set of Interrogatories, as follows:

### **INTERROGATORY NO. 1**

Identify all uses, or intended uses, by Applicant of Applicant's mark to identify any goods and/or services.

### **RESPONSE TO INTERROGATORY NO. 1**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts.

Without waiving the foregoing objections, Applicant responds as follows: Applicant has a bona fide intention to use, and with regard to certain of the goods and services already has begun to use, Applicant's Mark in connection with all of the goods and services described in the applications which are the subject matter of this proceeding ("Applicant's Mark"), namely, armoires; chairs; dining tables; end tables; entertainment centers; pillows; sofas; tables; upholstered furniture, in international class 20; bed blankets; blanket throws; children's blankets; lap blankets, in international class 24; bathing suits; blouses; coats; coverups; dresses; hats; jackets; jeans; leggings; lounge pants; pajamas; pants; ponchos; robes; scarves; shirts; sweaters; vests, in international class 25; building construction; construction management; construction of environmentally responsible residential real property; custom construction and building renovation; housing services, namely, repair, improvement, and construction of residential real property; installation and maintenance of solar thermal installations; residential and building construction consulting; in international class 37; and design of specialty interior and exterior environment settings; interior design services; interior design services including space planning, furniture selection, material and surface selection, in international class 42.

## **INTERROGATORY NO. 2**

Identify the retail outlets, or intended retail outlets, in the United States for the goods and/or services identified in response to Interrogatory No. 1.

## **RESPONSE TO INTERROGATORY NO. 2**

Applicant objects to this Interrogatory as vague, ambiguous and overbroad as to time and scope and irrelevant to the claims and defenses asserted in this proceeding.

Without waiving the foregoing objections, Applicant responds as follows: Applicant intends to sell its goods in department stores, children's stores and boutiques, travel stores, online-direct marketing, and baby stores. Applicant intends to provide its services from its offices in Southern California.

## **INTERROGATORY NO. 3**

Describe the methods, or intended methods, for advertising and promoting in the United States the goods and/or services identified in response to Interrogatory No. 1.

## **RESPONSE TO INTERROGATORY NO. 3**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts. Applicant further objects to this Interrogatory as overbroad as to time and scope.

Without waiving the foregoing objections, Applicant responds as follows: Applicant promotes its goods and services primarily through its authorized third party sales representatives and by means of online sales and promotion.

## **INTERROGATORY NO. 4**

State the date of first use, or intended first use, of Applicant's mark for the goods and/or services identified in response to Interrogatory No. 1.



#### **RESPONSE TO INTERROGATORY NO. 4**

Applicant objects to this Interrogatory as vague, ambiguous, compound, and irrelevant to the claims and defenses asserted in this proceeding.

Without waiving the foregoing objections, Applicant responds as follows: Applicant used Applicant's Mark as early as March 2009 for pillows and throws and March 2010 for children's and adult accessories. Applicant's first intended use of the remaining goods and services is expected in 2011.

#### **INTERROGATORY NO. 5**

Describe the circumstances surrounding the first use of Applicant's mark, including the manner of such use, the applicable goods and/or services on or in connection with which the mark was used, and identify the person(s) within Applicant and apart from Applicant who are knowledgeable with respect to such use.

#### **RESPONSE TO INTERROGATORY NO. 5**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts. Applicant further objects to this Interrogatory as irrelevant to the claims and defenses asserted in this proceeding.

Without waiving the foregoing objections, Applicant responds as follows: The first commercial uses of the Applicant's Mark were handled directly by the Applicant. The Applicant's Mark was used on baby blankets, which were sold wholesale to stores in Los Angeles, California, and in Japan and South Korea. In addition to Applicant, persons knowledgeable with respect to such use are Ginger Bort of Cosmic Cowboy Trading, LLC, as a sourcer, and Cathy Slatoff of Eloisa & Mia, LLC, as a sales representative.

**INTERROGATORY NO. 6**

State the target market for the goods and/or services identified in response to Interrogatory No. 1.

**RESPONSE TO INTERROGATORY NO. 6**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it relates to a wide variety of goods and services of Applicant.

Without waiving the foregoing objections, Applicant responds as follows: With regard to Applicant's goods, the target market consists primarily of new mothers, grandmothers, babies, homemakers, men and women travelers. With regard to Applicant's services, the target market consists primarily of home owners, interior designers, and architects.

**INTERROGATORY NO. 7**

State the price or price range (or intended price or price range) for the goods and/or services identified in response to Interrogatory No. 1.

**RESPONSE TO INTERROGATORY NO. 7**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it relates to a wide variety of goods and services of Applicant.

Without waiving the foregoing objections, Applicant responds as follows: With regard to Applicant's goods, the retail prices range from \$42 to \$5,000. With regard to Applicant's services, the price range would be dependent upon the total budget of the design project for which Applicant was engaged to provide the services, and therefore is difficult or impossible to estimate.

#### **INTERROGATORY NO. 8**

Identify and describe all activities by Applicant, or on Applicant's behalf, taken on or prior to the January 25, 2010 filing date of Application No. 77919644 that support a bona fide intention to use Applicant's Mark.

#### **RESPONSE TO INTERROGATORY NO. 8**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts.

Without waiving the foregoing objections, Applicant responds as follows: Prior to January 25, 2010, Applicant's activities which support its bona fide intention to use Applicant's Mark included market research for the launch of a home décor line, investigating products, sourcing fabrics, sourcing manufacturers, sourcing products, traveling to stores, discussions with prospective product sales representatives, and manufacturing product prototypes, including garden urns, sofas, chairs, nightstands, tables, entertainment centers, lampshades, throws, pillows, baby blankets, travel blankets, robes, slippers, stoles, bath towels, and beach coverups.

#### **INTERROGATORY NO. 9**

Identify and describe all activities by Applicant, or on Applicant's behalf, taken on or prior to the January 25, 2010 filing date of Application No. 77919645 that support a bona fide intention to use Applicant's Mark.

#### **RESPONSE TO INTERROGATORY NO. 9**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts.

Without waiving the foregoing objections, Applicant responds as follows: Prior to January 25, 2010, Applicant's activities which support its bona fide intention to use Applicant's

Mark included market research for the interior design and construction services, and business planning.

**INTERROGATORY NO. 10**

State the facts surrounding the circumstances of the conception, adoption and selection of Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 10**

Applicant conceived, adopted and selected Applicant's Mark because it is Applicant's legal name, and the name by which she is known both personally and professionally.

**INTERROGATORY NO. 11**

State the facts supporting any meaning, derivation or significance of the wording in Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 11**

Applicant responds that the "wording" of Applicant's Mark is derived solely from the fact that it is her legal name, and the name by which she is known both personally and professionally. The Applicant's Mark has no other meaning or derivation.

**INTERROGATORY NO. 12**

State whether Applicant has ever received any communication concerning (A) any instance of actual confusion with respect to Opposer's Mark and Applicant's Mark or (B) any instance when a person mistakenly made any association, affiliation or connection between Applicant and Opposer or their respective marks or goods or services; and, if so, describe the circumstances surrounding such communication, including the date thereof and persons having knowledge thereof.

### **RESPONSE TO INTERROGATORY NO. 12**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts.

Without waiving the foregoing objections, Applicant responds as follows: Applicant has never received any communication concerning any instance of actual confusion with respect to Opposer's Mark and Applicant's Mark. Applicant is unaware of any instance when a person mistakenly made any association, affiliation or connection between Applicant and Opposer or their respective marks or goods or services. Furthermore, Applicant's investigation is still ongoing, and therefore Applicant reserves the rights to supplement this response as additional information becomes known.

### **INTERROGATORY NO. 13**

If Applicant contends that there is not a likelihood of confusion between Opposer's Mark and Applicant's Mark, state the facts supporting such contention.

### **RESPONSE TO INTERROGATORY NO. 13**

Applicant objects to this Interrogatory as vague, ambiguous and as calling for speculation on the part of Applicant. Applicant further objects to this Interrogatory as calling for a legal conclusion.

Without waiving the foregoing objections, Applicant responds as follows: Applicant's goods and services have nothing whatsoever in common with those of Opposer. Applicant's goods are interior décor and similar types of products, and the services pertain to interior design and construction. In sharp contrast, Opposer's goods consist of merchandise intended for purchase by fans of a rock band. Applicant and Opposer's channels of trade are entirely separate. Applicant and Opposer's intended customers are an entirely separate demographic.

Furthermore, Applicant's investigation is still ongoing, and therefore Applicant reserves the rights to supplement this response as additional information becomes known.

**INTERROGATORY NO. 14**

If Applicant contends that Opposer's Mark is invalid, unenforceable and/or otherwise not entitled to protection, state the facts supporting such contention.

**RESPONSE TO INTERROGATORY NO. 14**

Applicant objects to this Interrogatory as vague, ambiguous and compound, insofar as it contains multiple sub-parts.

Without waiving the foregoing objections, Applicant responds as follows: With regard to the particular goods identified in the registrations for Opposer's Marks, Applicant does not contend that Opposer's Marks are invalid, unenforceable or otherwise not entitled to protection. To the extent that Opposer seeks to enforce such marks in restraint of Applicant's own lawful use of its marks, Applicant contends that such efforts are unlawful and supported neither by the facts nor the law.

**INTERROGATORY NO. 15**

State the facts supporting the matters alleged in each of the Affirmative Defenses as stated in Applicant's Answer to the Notice of Opposition and/or First Amended Notice of Opposition.

**RESPONSE TO INTERROGATORY NO. 15**

Opposer has failed to state a claim for which relief can be granted because Applicant possesses rights superior to the alleged rights claimed by Opposer, and there is nothing in the record to indicate that Opposer has any right to enforce Opposer's Marks against Applicant's lawful use of Applicant's Marks for the purposes identified in the applications for such marks.

Dated: February 7, 2011

Respectfully submitted,  
Don Thornburgh Law Corporation  
466 Foothill Boulevard #220  
La Cañada Flintridge, CA 91011



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Don Thornburgh  
for Don Thornburgh Law Corporation

Attorney for Applicant,  
Kelly Van Halen

CONFIDENTIAL  
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# EXHIBIT 3



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# LiMiTeD★Too

**Word Mark** LIMITED TOO

**Goods and Services**

IC 003. US 001 004 006 050 051 052. G & S: personal care products, namely, antiperspirant, artificial nails, astringent for the face, astringent for the skin, bath beads, bath oil, bath salts, blush, body glitter, body mist, body oil, body scrub, body wash, bubble bath, cologne, cream for the body, cream for the cuticles, cream for the eyes, cream for the face, cream for the feet, cream for the hands, deodorants for personal use, essential oils for personal use, exfoliating preparations for the skin, eye gels, eye makeup pencils, eye masks, eye shadow, face highlighter, face masks, face mist, face scrub, non-medicated foot soaks, face toners, foundation, fragrant body splash, fragrant body mist, hair conditioner, hair dyes, hair glitter, hair highlighter, hair mascara, hair pomade, hair rinses, hair removing creams, hair shampoo, hair spray, hair straightener, hair styling gel, hair styling mousse, lotion for the body, lotion for the face, lotion for the feet, lotion for the hands, lip balm, lip gloss, lip liner, lip makeup pencils, lipstick, makeup for the body, makeup for the face, makeup remover, mascara, massage cream, massage lotion, massage oil, nail polish, nail polish remover, nail stencils, non-medicated blemish stick, non-medicated cleanser for the face, non-medicated foot spray, non-medicated massage ointment, oil blotting sheets for the skin, perfume, powder for the body, powder for the face, powder for the feet, pumice stones for personal use, salt scrubs for the skin, shaving cream, shaving gels, shower cream, shower gel, skin bronzing cream, soap for the body, soap for the face, soap for the hands, sun block for the body, sun block for the face, suntan lotion for the body, suntan lotion for the face, sunless tanning lotion for the body, sunless tanning lotion for the face, pre-suntanning lotion for the body, pre-suntanning lotion for the face, post-suntanning lotion for the body, post-suntanning lotion for the face and talcum powder. FIRST USE: 19911006. FIRST USE IN COMMERCE: 19911006

IC 009. US 021 023 026 036 038. G & S: eye wear, namely, sunglasses. FIRST USE: 19950930. FIRST USE IN COMMERCE: 19950930

IC 011. US 013 021 023 031 034. G & S: lamps and lamp shades. FIRST USE: 19980830. FIRST USE IN COMMERCE: 19980830

IC 014. US 002 027 028 050. G & S: jewelry and watches. FIRST USE: 19980930. FIRST USE IN COMMERCE: 19980930

IC 016. US 002 005 022 023 029 037 038 050. G & S: dry erase writing boards, pictures and stationery. FIRST USE: 19970430. FIRST USE IN COMMERCE: 19970430

IC 018. US 001 002 003 022 041. G & S: backpacks, gym bags, handbags, luggage, purses, tote bags, umbrellas and wallets. FIRST USE: 19960831. FIRST USE IN COMMERCE: 19960831

IC 020. US 002 013 022 025 032 050. G & S: **bed** head boards, boxes not made of metal sold empty, jewelry boxes not made of metal sold empty, picture frames, pillows and shelves. FIRST USE: 20000531. FIRST USE IN COMMERCE: 20000531

IC 024. US 042 050. G & S: **bed** canopies, **bed** skirts, bedspreads, **blankets**, comforters, decorative beaded curtains, decorative **bed** nets, pillow shams, sheets, shower curtains, towels and window curtains. FIRST USE: 20000531. FIRST USE IN COMMERCE: 20000531

IC 025. US 022 039. G & S: clothing, namely, bathrobes, beach cover-ups, belts, blazers, **blouses**, body suits, boots, boxer shorts, bras, bustiers, camisoles, caps, coats, dresses, garter belts, girdles, gloves, gowns, halter tops, **hats**, headbands, **jackets**, **jeans**, jogging suits, knit **shirts**, knit tops, leotards, lingerie, mittens, negligees, night gowns, night **shirts**, pajamas, panties, **pants**, pantyhose, sandals, sarongs, **scarves**, **shirts**, shoes, shorts, skirts, slacks, slippers, slips, sneakers, socks, stockings, suits, sweat **pants**, sweat **shirts**, sweat shorts, sweat suits, **sweaters**, swimsuits, **t-shirts**, tank tops, teddies, ties, tights, underpants, undershirts, underwear and vests. FIRST USE: 19870916. FIRST USE IN COMMERCE: 19870916

IC 026. US 037 039 040 042 050. G & S: barrettes, hair bands, hair bows, hair clips, hair ornaments, hair pins, hair ribbons and ponytail holders. FIRST USE: 19960831. FIRST USE IN COMMERCE: 19960831

IC 027. US 019 020 037 042 050. G & S: wall hangings not made of textiles and rugs. FIRST USE: 20020731. FIRST USE IN COMMERCE: 20020731

IC 028. US 022 023 038 050. G & S: plush toys. FIRST USE: 19970430. FIRST USE IN COMMERCE: 19970430

IC 035. US 100 101 102. G & S: retail store services, mail order catalog services and on-line retail store services featuring personal care products, home furnishings, jewelry, watches, packs, bags, wallets, clothing, hair accessories and toys. FIRST USE: 19871106. FIRST USE IN COMMERCE: 19871106

<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	05.05.25 - Daffodils; Iris (flower); Other flowers 26.11.02 - Plain single line rectangles; Rectangles (single line) 26.11.20 - Rectangles inside one another 26.11.21 - Rectangles that are completely or partially shaded
<b>Serial Number</b>	78491413
<b>Filing Date</b>	September 29, 2004
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	October 25, 2005
<b>Registration Number</b>	3092372
<b>Registration Date</b>	May 16, 2006

**Owner** (REGISTRANT) Limco, Inc. CORPORATION DELAWARE Three Limited Parkway Columbus OHIO 43230  
(LAST LISTED OWNER) LIMITED STORES, LLC LIMITED LIABILITY COMPANY DELAWARE 7775 WALTON PARKWAY NEW ALBANY OHIO 43054

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Rosanne T. Yang

**Prior Registrations** 1492347;1636474;1726609;AND OTHERS

**Description of Mark** The mark consists of the words LIMITED TOO and a flower design.

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# JULIUS

**Word Mark**  
**Goods and Services**

JULIUS

IC 012. US 019 021 023 031 035 044. G & S: Bicycles. FIRST USE: 20020800. FIRST USE IN COMMERCE: 20020800

IC 014. US 002 027 028 050. G & S: Clocks, watches. FIRST USE: 20011000. FIRST USE IN COMMERCE: 20011000

IC 016. US 002 005 022 023 029 037 038 050. G & S: Children's books; series of fiction and non-fiction books featuring animated characters; address books; stationery. FIRST USE: 20070900. FIRST USE IN COMMERCE: 20070900

IC 018. US 001 002 003 022 041. G & S: Bags, namely, all-purpose carrying bags, beach bags, handbags, wallets, backpacks, book bags, school bags, tote bags, shoulder bags, umbrellas. FIRST USE: 19951100. FIRST USE IN COMMERCE: 19951100

IC 024. US 042 050. G & S: Textiles and textile goods, namely, household linens, **bed** linen, bathroom linen, curtains of textile or plastic, pillow shams, **bed** sheets, duvets, covers for duvets, pillow cases, shower curtains, towels, **bed blankets**, comforters, **throws**. FIRST USE: 20010700. FIRST USE IN COMMERCE: 20010700

IC 025. US 022 039. G & S: Clothing, namely, **T-shirts**, **jeans**, shorts, sweatshirts, **shirts**, **pants**, socks, dresses, **sweaters**, **blouses**, undershirts, skirts, **jackets**, tank tops, skorts, overalls, hooded sweatshirts, lounge wear, wovens, namely, pajamas; bras, underwear, ponchos, **scarves**, gloves, belts; footwear, namely, slippers, thongs, mukluks; head wear, namely, **hats**, beanies, baseball

caps, berets. FIRST USE: 19951100. FIRST USE IN COMMERCE: 19951100

IC 028. US 022 023 038 050. G & S: Toys, namely, stuffed toys, stuffed toy animals, plush toys, children's multiple activity toys; games, namely, card games. FIRST USE: 20011000. FIRST USE IN COMMERCE: 20011000

IC 041. US 100 101 107. G & S: Entertainment in the nature of cartoons, web episodes, and ongoing comedy and dramatic episodic multimedia programs, distributed over television and the Internet, featuring animated characters. FIRST USE: 19990401. FIRST USE IN COMMERCE: 19990401

**Standard  
Characters  
Claimed**

**Mark Drawing  
Code** (4) STANDARD CHARACTER MARK

**Serial Number** 77029371

**Filing Date** October 26, 2006

**Current Filing  
Basis** 1A

**Original Filing  
Basis** 1A;1B

**Published for  
Opposition** August 28, 2007

**Registration  
Number** 3583780

**Registration  
Date** March 3, 2009

**Owner** (REGISTRANT) Paul Frank Industries, Inc. CORPORATION CALIFORNIA 960 W. 16th Street  
Costa Mesa CALIFORNIA 92627

(LAST LISTED OWNER) PAUL FRANK INDUSTRIES LLC LIMITED LIABILITY COMPANY  
DELAWARE 10100 SANTA MONICA BLVD., 26TH FLOOR LOS ANGELES CALIFORNIA 90067

**Assignment  
Recorded** ASSIGNMENT RECORDED

**Attorney of  
Record** Perry J. Viscounty

**Prior  
Registrations** 2949386

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** LIVE

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### Word Mark

DANIELA CORTE BABY

### Goods and Services

IC 024. US 042 050. G & S: Bath mitts, Bath sheets, Bath towels, Beach towels, **Bed blankets**, **Bed canopies**, **Bed linen**, **Bed pads**, **Bed sheets**, **Bed sheets of paper**, **Bed skirts**, **Bed spreads**, Bedsheets, Blanket **throws**, **Blankets** for outdoor use, Burp cloths, Cashmere **blankets**, Children's **blankets**, Children's towels, Covers for cushions, Crib canopies, Hooded towels, Mattress covers, Pillow cases, Pillow covers, Pillowcases, Receiving **blankets**, Terry towels, Wash cloths, Washcloths, Woolen **blankets**. FIRST USE: 20041215. FIRST USE IN COMMERCE: 20050510

IC 025. US 022 039. G & S: Clothing, namely, Baby doll pajamas, Balaclavas, Balloon **pants**, Bandanas, Bandeaux, Baseball caps, Bathing costumes, Bathing costumes for women, Bathing suits, Bathing suits for men, Bathing trunks, Bathrobes, Beach cover-ups, Beachwear, Belts, Belts made of leather, Belts of textile, Berets, Bermuda shorts, Bib overalls, Bibs not of cloth or paper, Bikinis, Blazers, Bloomers, **Blouses**, Blousons, Board shorts, Board shorts, Body suits, Boleros, Bolo ties, Booties, Bottoms, Boxer briefs, Boxer shorts, Bustier, Camisoles, Capes, Capri **pants**, Capris, Caps, Caps with visors, Cardigans, Cargo **pants**, wrap-arounds, Coats, Coats for men and women, Coats made of cotton, Coats of denim, Coveralls, Cover-ups, Denim **jackets**, Denims, Dorags, Dress **shirts**, Dress suits, Dresses, Dungarees, Evening dresses, Evening gowns, Fabric belts, Fitted swimming costumes with bra cups, Fleece pullovers, Fleece shorts, Flip flops, Footwear, Footwear for women, Full-length kimonos (nagagi), Fur cloaks, Fur coats, Fur coats and **jackets**, Fur **hats**, Fur **jackets**, Fur muffs, Fur stoles, Gauchos, Gloves, Gloves, Gowns, Greatcoats, Gym shorts, Gym suits, G-strings, Halter tops, **Hats**, Head **scarves**, Head sweatbands, Head wear, Headbands, Headbands against sweating, Headgear, namely, head bands and **hats**, Headwear, Heavy **jackets**, Hooded sweat **shirts**, Hoods, **Jackets**, **Jeans**, Jerkins, Jerseys, Jumpers, Kerchiefs, Kilts, Kimonos, Knee highs, Knee-high stockings, Knit **shirts**, Knitted caps, Lace boots, Ladies' suits, Ladies' underwear, Leather belts, Leather coats, Leather headwear, Leather **jackets**, Leather **pants**, Leather shoes, Leather slippers, Leg shapers, Leg warmers,

Leggings, Leg-warmers, Leotards, Leotards and tights for women, men, and children made of nylon, cotton, or other textile fibers, Lingerie. Long **jackets**, Long sleeved vests, Loungewear, Maternity lingerie, Maternity sleepwear, **jackets**, coats, trousers, vests, Men's suits, women's suits, Miniskirts, Mittens, Mock turtle-neck **sweaters**, Muffler, Mufflers, Muscle tops, Muu muus, Negligees, Night gowns, Night **shirts**, Nightcaps, Nightdresses, Nighties, Nightwear, One piece garment for infants and toddlers, Open-necked **shirts**, Over coats, Overalls, Overcoats, Pajamas, Panties, shorts and briefs, **Pants**, Pantsuits, Pareos, Peignoirs, Polo **shirts**, Ponchos, Pullovers, Rainwear, Robes, Rompers, Sandals, Saris, Sarongs, Sashes, **Scarves**, Shawls, Shawls and headscarves, Shawls and stoles, Shifts, **Shirts**, **Shirts** for suits, Short sets, Short trousers, Shorts, Short-sleeved or long-sleeved **t-shirts**, Short-sleeved **shirts**, Shoulder **scarves**, Shoulder wraps, Shrugs, Silk **scarves**, Skirt suits, Skirts, Skirts and dresses, Slacks, Sleep **shirts**, Sleeping garments, Sleepwear, Sleeved or sleeveless **jackets**, Sleeveless jerseys, Slippers, Slips, Socks, Sport coats, Sport **shirts**, Sports **jackets**, Sports jerseys, Sports **shirts**, Sports **shirts** with short sleeves, Stockings, Stoles, Suede **jackets**, Suit coats, Suits, Suits of leather, Sun sleeves, Sun visors, Sun suits, Swaddling clothes, Sweat bands, Sweat **pants**, Sweat **shirts**, Sweat shorts, Sweat suits, Sweatbands, **Sweaters**, Swim wear, Swimming costumes, Swimming trunks, Swimsuits, Tank tops, Tank-tops, Teddies, Thongs, Tights, Togas, Tops, Toques, Track **pants**, Track suits, Tracksuits, Training suits, Trench coats, Trousers, Trousers of leather, Trunks, Tunics, Tuques, Turtleneck **sweaters**, Turtlenecks, T-**shirts**, Undergarments, Underclothes, Undergarments, Underpants, Undershirts, Underskirts, Underwear, Uniforms, Unitards, Vests, V-neck **sweaters**, Walking shorts, Warm up suits, Wedding dresses, Wedding gowns, Women's shoes, Women's underwear, Woolen socks, Woolly **hats**, Wrap belts for kimonos (datemaki), Wraps, Wrist bands. FIRST USE: 20041215. FIRST USE IN COMMERCE: 20050510

<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	03.01.08 - Dogs; Puppies 03.01.24 - Stylized cats, dogs, wolves, foxes, bears, lions, tigers 18.13.05 - Collars (animal other than horses); Leashes (animal other than horses); Yokes, collars, leashes, and harnesses for other animals
<b>Trademark Search Facility Classification Code</b>	ANI-MAMM Mammalia; accurate depiction of warm-blooded animals except for human beings ART-18.13 Equipment for animals GROT-ANI Exaggerated depiction of an animal SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors SHAPES-HEARTS Heart shaped design
<b>Serial Number</b>	77125460
<b>Filing Date</b>	March 8, 2007
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	February 19, 2008
<b>Registration Number</b>	3421560
<b>Registration Date</b>	May 6, 2008
<b>Owner</b>	(REGISTRANT) Daniela Corte, Inc. CORPORATION MASSACHUSETTS 3rd Floor 91 Newbury St Boston MASSACHUSETTS 02116
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BABY" APART FROM THE MARK AS SHOWN
<b>Description of Mark</b>	The color(s) light blue, red, white, pink, and black are claimed as a feature of the mark. is/are claimed as a feature of the mark. The mark consists of a light blue dog with a white underbelly and legs, a pink tongue, and a black collar with a red heart around it. The stylized text Daniela Corte Baby accompanies it.
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Other Data</b>	The name shown in the mark identifies Daniela Corte, whose consent(s) to register is submitted.
<b>Live/Dead</b>	LIVE



## Indicator

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**Word Mark**  
**Goods and**  
**Services**

THREADS FOR LIFE

IC 024. US 042 050. G & S: TEXTILE PLACE MATS, **BED BLANKETS**, **BED LINENS**, **BED SHEETS**, **BEDSPREADS**, **COTTON AND SILK CLOTH FABRIC** USED AS LINING FOR CLOTHING, CURTAINS, UNFITTED FABRIC FURNITURE COVERS, UNFITTED FURNITURE COVERS NOT OF PAPER, HANDKERCHIEFS, TOWELS, KITCHEN TOWELS, BATH TOWELS, WASHCLOTHS AND WASHING MITTS. FIRST USE: 20070505. FIRST USE IN COMMERCE: 20070512

IC 025. US 022 039. G & S: MEN'S AND BOY'S WEARING APPAREL, NAMELY, **T-SHIRTS**, **SWEATSHIRTS**, **TANK TOPS**, **WOVEN SHIRTS**, **SWEATERS**, **CARDIGANS**, **VESTS**, **JACKETS**, **PANTS**, **SWEATPANTS**, **JEANS**, **SHORTS**, **HATS**, **CAPS**, **COATS**, **SCARVES**, **NECKERCHIEFS**, **NECK BANDS**, **WRIST BANDS**, **HEAD BANDS**, **GLOVES**, **BELTS**, **PAJAMAS**, **SHOES**, **SOCKS**, **UNDERWEAR**, **SWIM WEAR**, **AND TRUNKS**; AND WOMEN'S AND GIRL'S WEARING APPAREL, NAMELY, **T-SHIRTS**, **SWEATSHIRTS**, **TANK TOPS**, **WOVEN SHIRTS**, **SWEATERS**, **CARDIGANS**, **VESTS**, **JACKETS**, **PANTS**, **SWEATPANTS**, **JEANS**, **SHORTS**, **HATS**, **CAPS**, **COATS**, **BELTS**, **SCARVES**, **NECKERCHIEFS**, **NECK BANDS**, **WRIST BANDS**, **HEAD BANDS**, **GLOVES**, **PAJAMAS**, **SHOES**, **SOCKS**, **UNDERWEAR**, **FOUNDATION GARMENTS**, **PANTYHOSE**, **TEDDIES**, **BRAS**, **SKIRTS**, **DRESSES**, **BLOUSES**, **SWIM WEAR**, **AND BIKINIS**. FIRST USE: 20070505. FIRST USE IN COMMERCE: 20070512

**Mark Drawing**  
**Code**

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search**  
**Code**

09.01.02 - Embroidery; Labels, clothing; Stitching, not on clothing pockets  
 26.01.03 - Circles, incomplete (more than semi-circles); Incomplete circles (more than semi-circles)  
 26.01.13 - Circles, two (not concentric); Two circles  
 26.01.16 - Circles touching or intersecting

**Trademark**  
**Search Facility** ART-09.01 Textiles other than clothing  
**Classification** SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles  
**Code**  
**Serial Number** 76676914  
**Filing Date** May 16, 2007  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** January 15, 2008  
**Registration Number** 3404039  
**Registration Date** April 1, 2008  
**Owner** (REGISTRANT) Threads For Life, Inc. CORPORATION NEVADA 23012 Saddle Peak Road Topanga CALIFORNIA 90290  
**Attorney of Record** Thomas I. Rozsa  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "THREADS" APART FROM THE MARK AS SHOWN  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the words "THREADS FOR LIFE" and the design of two intersecting semi-circles, as shown in the drawing.  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Word Mark** PIQUÉ HOME OF THE WAFFLE

**Goods and Services** IC 024. US 042 050. G & S: **Bed** covers, namely, **bed blankets**, **bed linen**, **bed sheets**, and **bed spreads**; tablecloths not of paper; curtains; linen sets; pillowcases; textile napkins; unfitted fabric furniture covers; hand and body towels; and washing mitts. FIRST USE: 20000609. FIRST USE IN COMMERCE: 20000609

IC 025. US 022 039. G & S: Clothing, namely, coats, headwear, **jackets**, **pants**, **jeans**, rainwear, shorts, socks, sweatpants and sweatshirts; headgear, namely, **hats**, bucket **hats**, ear bands and visors; knitwear, namely, knit and woven skirts and **blouses**, knit and woven skirts, knit and woven **pants** and slacks, and knit and woven dresses, **jackets** and coats; leather clothing, namely, **jackets**, vests, gloves, **jeans**, chaps, tops, boots, shorts, caps, belts and wristbands; sports clothing, namely, shoes, **shirts**, slacks, caps, **hats**, gloves, socks and **sweaters**; bath clothes, namely, bathrobes, bath slippers, swaddles and bath gloves; beach clothes, namely, sarongs, swimsuit covers, beach shorts and beach **shirts** and pareos; coats, overcoats, duffle coats, anoraks, **jackets**, trousers, **shirts**, **T-shirts**, sweatshirts, pullovers, woolen **jackets**, **sweaters**, suits, skirts, **blouses**, tunics, panties, underpants, singlets, undershirts, shorts, Bermuda shorts, lingerie, brassieres, bodices, camisoles, slips, bathing suits, pajamas, nightdresses, dressing gowns, underskirts, petticoats, corsets, overalls, school uniforms, worker uniforms, aprons, socks, stockings; baby bibs not of paper; infant cloth diapers; swaddling clothes for babies; footwear; shoes, boots, slippers; heel inserts, heels, inner soles and boot tips; athletic shoes; cleats for attachment to sports shoes; neckties **scarves**, neckerchiefs, gloves, muffs, cuffs, suspenders, belts, ankle garters and garter belts, headbands, wristbands and bandanas. FIRST USE: 20000609. FIRST USE IN COMMERCE: 20000609

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 76550668  
**Filing Date** October 10, 2003  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** September 27, 2005  
**Registration Number** 3031048  
**Registration Date** December 20, 2005  
**Owner** (REGISTRANT) EGE DEMIRTEKS TEKSTIL SANAYI VE TICARET LTD. STI. CORPORATION  
TURKEY Ankara Asfalti Uzeri No. 92 Denizli TURKEY  
**Attorney of Record** Bruce L. Adams  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PIQUE" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## Typed Drawing

Word Mark ANNAPURNA

## Goods and Services

IC 003. US 001 004 006 050 051 052. G & S: perfumes, toilet water, personal deodorants, essential oils for personal use, body lotions, shower gel, bubble bath, bath oils, bath pearls, skin soaps, shaving balms, shaving cream, aftershave lotions, cosmetic pencils, foundation make-up, face powders, talcum powder, rouges, lipsticks, mascaras, skin cleansing creams, skin cleansing lotions, sun screen preparation, nail polish, beauty masks, facial scrubs, face creams, body creams, hair shampoos, hair sprays, hair lotions, dentifrices. FIRST USE: 19860103. FIRST USE IN COMMERCE: 19860103

IC 018. US 001 002 003 022 041. G & S: handbags, luggage, shoulder bags, beach bags, clutch bags, all purpose sports bags, attache cases, school bags, tote bags, travelling bags, credit card cases, document cases, passport cases, cosmetic cases sold empty, keycases, knapsacks, rucksacks, briefcases, purses, wallets, travelling trunks, suitcases, umbrellas, parasols, walking sticks. FIRST USE: 19860103. FIRST USE IN COMMERCE: 19860103

IC 024. US 042 050. G & S: fabrics for the manufacture of clothing articles, cotton fabrics, gauze fabrics, **bed** and table covers, quilts, curtains, textile wall hangings, textile tapestries, cloth flags, felt cloths, bath linen, fabric table runners, textile place mats, dish mats and carafe mats, **bed** linen, towels, face cloth napkins, washcloths, fabric handkerchiefs, table linen, coasters, pillow cases, napkins, kitchen towels, mosquito nets, household linen, **bed blankets**, mat of textile of dining tables. FIRST USE: 19790202. FIRST USE IN COMMERCE: 19860103

IC 025. US 022 039. G & S: brassieres, corsets, singlets, petticoats, nightgowns, pajamas, dressing gowns, pullovers, bath robes, bathing suits, gloves, cardigans, Jersey, neckties, neckerchiefs, **scarves**, **sweaters**, socks, stockings, tights, trousers, leggings, skirts, **jackets**, capes, jerkins, **shirts**, vests, waistcoats, jumpers, track suits, **blouses**, **jeans**, panties, **pants**, Bermuda shorts, **T-shirts**, sweat-**shirts**, suits and dresses, tank tops, overcoats, coats, anoraks, raincoats, belts, suspenders, shoes, boots, slippers, **hats**, caps. FIRST USE: 19790202. FIRST USE IN COMMERCE: 19860103

Mark Drawing Code (1) TYPED DRAWING

Serial

**Number** 76140024  
**Filing Date** October 3, 2000  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** June 19, 2001  
**Registration Number** 2487502  
**Registration Date** September 11, 2001  
**Owner** (REGISTRANT) ANNAPURNA - S.P.A. JOINT STOCK COMPANY ITALY Via A. Fleming 26/A PRATO ITALY  
**Attorney of Record** HERBERT DUBNO  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Other Data** The name in the mark does not identify a living individual.  
**Live/Dead Indicator** LIVE

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Word Mark BELK

Goods and Services

(CANCELLED) IC 010. US 026 039 044. G & S: [ ELECTRIC **BLANKETS** ]. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED ON ANOTHER FORM IN AUGUST 1, 1954. FIRST USE IN COMMERCE: 19680306

IC 016. US 002 005 022 023 029 037 038 050. G &amp; S: PHOTOGRAPH ALBUMS, APPOINTMENT BOOKS, ARCHITECTURAL PLANS, PAPER BAGS, BOOK MARKS, BOOKKEEPING FORMS, NEWS BULLETINS, NAMELY, COMPANY NEWS, BUSINESS FORMS, BUSINESS RECORD BOOKS, CARDBOARD (BOXES OF), GENERAL PRODUCT CATALOGUES, COUPON BOOKS, DECALS, ENVELOPES, EXPENSE BOOKS, FORMS (BLANK OR PARTIALLY PRINTED), FOUNTAIN PENS, GUMMED PAPER, ADDRESS LABELS, LABELS (BLANK OR PARTIALLY PRINTED - NOT OF TEXTILE), NOTE CARDS, SCRATCH PADS, PAPER BANNERS, PLASTIC SHOPPING BAGS, [DISPOSABLE DIAPERS ], AND STATIONERY. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM IN 1899. FIRST USE IN COMMERCE: 19680306

IC 018. US 001 002 003 022 041. G &amp; S: ATTACHE CASES, BILLFOLDS, BRIEF CASES, GARMENT BAGS FOR TRAVEL, LUGGAGE, UMBRELLAS, MOLDED ATTACHES AND SHOE BAGS FOR TRAVEL. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM ON FEBRUARY 1, 1940. FIRST USE IN COMMERCE: 19680306

IC 020. US 002 013 022 025 032 050. G &amp; S: PILLOWS, [JUVENILE FURNITURE ], NAMELY, CHAIRS, TABLES, DESKS, [TOY CHESTS, CRIBS, PLAYPENS, DRESSING TABLES, BASSINETS, HIGH CHAIRS ], AND MATTRESSES. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM ON AUGUST 1, 1954. FIRST USE IN COMMERCE: 19680306



IC 021. US 002 013 023 029 030 033 040 050. G & S: [IRONING BOARD COVERS, IRONING BOARD PADS,] SMALL DOMESTIC UTENSILS AND CONTAINERS CONSISTING OF BREAD BOXES, CERAMIC COOKWARE, CHINA CUPS, COOKIE JARS, BEVERAGE GLASSWARE, MUG TREES, NAPKIN HOLDERS, PITCHERS, SPICE RACKS, TEA KETTLES, TOWEL HOLDERS AND TRAYS. FIRST USE: 19840709. FIRST USE IN COMMERCE: 19840709

IC 024. US 042 050. G & S: TOILET AND TANK SETS, CURTAINS, DRAPES, VALANCES, DUST RUFFLES, [ MIXER COVERS, TOASTER COVERS ], BATH SHEETS, **BED** SHEETS, CRIB SHEETS, PILLOW CASES, PILLOW COVERS, SHAMS, MATTRESS COVERS, MATTRESS PADS, BEDSPREADS, COVERLETS, COMFORTERS, **BLANKETS**, CRIB **BLANKETS**, QUILTS, **BED** CANOPIES, [DRESSING TABLE SKIRTS], TABLE CLOTHS NOT OF PAPER, TEXTILE NAPKINS, BATH TOWELS, GUEST TOWELS, FINGERTIP TOWELS, WASHCLOTHS, DISH TOWELS, TEXTILE SLIP COVERS, TEXTILE THROW COVERS, BLANKET BAGS, AND HANDKERCHIEFS. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM ON AUGUST 1, 1954. FIRST USE IN COMMERCE: 19680306

IC 025. US 022 039. G & S: INFANTS BOOTIES, GOWNS, KIMONOS, SACQUES AND SLIPS; INFANTS AND TODDLERS COATS, [CLOTH DIAPERS ], DRESSES, HEADWEAR, **JACKETS**, **JEANS**, MITTENS, **PANTS**, PANTIES, SHAWLS, **SHIRTS**, SHOES, SHORTS, SKIRTS, SOCKS, SLEEPWEAR, SUITS, TIGHTS, TOPS, UNDERWEAR, KNIT TOPS AND **SWEATERS**; WOMEN'S AND GIRLS' COATS, ALL-WEATHER COATS, BELTS, BLAZERS, **BLOUSES**, DRESSES, GLOVES, HOSIERY, **JACKETS**, KNIT **SHIRTS**, **PANTS**, RUNNING SHORTS, **SHIRTS**, SHOES, SHORTS, SKIRTS, SOCKS, **SWEATERS**, SWIMSUITS, SWIM WEAR, TENNIS SHORTS, WARM-UP SUITS, WOVEN **SHIRTS**, **HATS**, GOWNS, KNIT TOPS, PAJAMAS, PANTIES, ROBES, SLIPS, DUSTERS, AND **SWEATERS**; MEN'S AND BOYS' **SCARVES**, ALL-WEATHER COATS, BELTS, BLAZERS, COATS, SPORT COATS, OVERCOATS, **SHIRTS**, DUNGAREES, GLOVES, **JACKETS**, LEATHER **JACKETS**, **JEANS**, KNIT **SHIRTS**, OVERALLS, PAJAMAS, **PANTS**, POLO **SHIRTS**, ROBES, RUNNING SHORTS, **SHIRTS**, SHOES, SHORTS, SLACKS, SOCKS, SPORT **SHIRTS**, SUITS, **SWEATERS**, SWIM SUITS, SWIM TRUNKS, SWIM WEAR, TENNIS SHORTS, TIES, TROUSERS, UNDERWEAR, WARM-UP SUITS, WOVEN **SHIRTS**, CANVAS SHOES, CASUAL SHOES. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM ON OCTOBER 23, 1930. FIRST USE IN COMMERCE: 19680306

IC 027. US 019 020 037 042 050. G & S: BATH MAT SETS AND RUGS. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM ON AUGUST 1, 1954. FIRST USE IN COMMERCE: 19680306

IC 028. US 022 023 038 050. G & S: DOLLS, STUFFED TOY ANIMALS [, BASEBALLS, BASKETBALLS, BATS, FOOTBALLS, GOLF CLUBS, SOCCER BALLS, TENNIS BALLS, AND TENNIS RACQUETS ]. FIRST USE: 19680306. USED IN ANOTHER FORM FIRST USED IN ANOTHER FORM IN 1962. FIRST USE IN COMMERCE: 19680306

Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	73840143
Filing Date	November 15, 1989
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 22, 1991
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	1641169
Registration	April 16, 1991

**Date**

**Owner** (REGISTRANT) BELK STORES SERVICES, INC. CORPORATION NORTH CAROLINA 2801 WEST TYVOLA ROAD CHARLOTTE NORTH CAROLINA 282174500

**Attorney of Record** MARTHA GAYLE BARBER

**Prior Registrations** 0360310;0530033;0578814;0660150;0660151;0660227;0876226;0877043;0986322; 1040297;AND OTHERS

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. PARTIAL SECT 8 (6-YR). SECTION 8(10-YR) 20010821.

**Renewal** 1ST RENEWAL 20010821

**Live/Dead Indicator** LIVE

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Trademarks &gt; Trademark Acceptable Identification of Goods &amp; Services

# Trademark ID Manual

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Hit No.	Class	Description	Status	Effective Date	Type	Note	Trilateral
1	009	Fire blankets	A	20 Feb 96	G	N	T
2	009	Fire blankets and fire extinguishers	A	08 Nov 07	G	N	T
3	009	Fire-extinguishing blankets	A	11 Mar 10	G	N	T
4	009	Protective active cooling vest, active cooling seats, active cooling head cap and active cooling blankets to prevent injury due to overheating	A	14 Jan 10	G	N	
5	009	Protective body cooling gear, namely, {indicate specific type of active cooling device, e.g., active cooling vests, active cooling blankets, etc.} to prevent injury due to overheating	A	07 May 10	G	N	
6	010	Electric blankets for medical purposes	M	15 Mar 93	G	N	
7	010	Therapeutic weighted products, namely, weighted blankets, lap pads and vests designed for clinical and home use to provide proprioceptive input to the body	A	21 Aug 08	G	N	
8	011	Electric blankets [for household purposes]	A	20 Jul 04	G	N	T
9	011	Electric blankets not for medical purposes	A	15 Mar 93	G	N	T
10	011	Warming cabinets for medical instruments, patient blankets and containers for medical fluids	A	01 Feb 06	G	N	
11	016	Gift sets consisting of a book in the field of {indicate subject matter} and also including a blanket	A	14 Jan 10	G	N	
12	016	Printers' blankets, not of textile	A	02 Apr 91	G	N	T
13	017	Concrete curing blankets made of plastic	A	25 Dec 08	G	N	T
14	017	Insulated concrete curing blankets	A	25 Dec 08	G	N	
15	017	Insulating blankets for hot water heaters	A	02 Apr 91	G	N	
16	017	Insulating blankets made of silica fibers	A	19 Apr 07	G	N	
17	017	Thermal insulation covers for storage or transportation of goods, namely, thermal insulating blankets, thermal insulating jackets, thermal insulating textile covers, thermal insulating pallet covers	A	02 Aug 07	G	N	
18	018	Horse blankets	A	02 Apr 91	G	N	T
19	018	Saddle blankets	A	30 Aug 07	G	N	
20	022	Cloth bags for stacking and storing diapers and blankets	A	01 Mar 05	G	N	
21	022	Concrete curing blankets made of textile	A	25 Dec 08	G	N	T

22	024	Baby bedding, namely, bundle bags, swaddling blankets, crib bumpers, fitted crib sheets, crib skirts, crib blankets, and diaper changing pad covers not of paper	A	09 Sep 10	G	N	
23	024	Baby blankets	A	14 Oct 10	G	N	
24	024	Beaver skin bed blankets	A	11 Mar 10	G	N	
25	024	Beaver skin blanket throws	A	11 Mar 10	G	N	
26	024	Bed blankets	A	15 Mar 93	G	N	
27	024	Blanket throws	A	01 Jun 01	G	N	
28	024	Blankets for outdoor use	A	20 Jul 04	G	N	T
29	024	Cashmere blankets	A	14 Sep 06	G	N	
30	024	Children's blankets	A	20 Jul 04	G	N	T
31	024	Lap blankets	A	21 May 09	G	N	T
32	024	Pet blankets	A	01 Sep 05	G	N	
33	024	Pet overnight sets composed primarily of a pet blanket and also including pet pajamas sold as a unit in a bag	A	23 Apr 09	G	N	
34	024	Receiving blankets	A	01 Jun 01	G	N	
35	024	Silk bed blankets	A	20 Jul 04	G	N	T
36	024	Silk blankets	A	20 Jul 04	G	N	T
37	024	Textile printers' blankets	A	02 Apr 91	G	N	
38	024	Travelling blankets	A	07 May 10	G	N	T
39	024	Woollen blankets	A	20 Jul 04	G	N	T
40	025	Infant wearable blankets	A	09 Sep 10	G	N	
41	025	Wearable blankets in the nature of blankets with sleeves	A	14 Jan 10	G	N	
42	026	Blanket binding	A	01 Dec 05	G	N	
43	030	Pigs-in-a-blanket	A	01 Jul 06	G	N	
44	036	Charitable fundraising services using proceeds from CD's, to provide food, blankets, shelter, other relief materials, blood, and financial assistance to victims of diseases and disasters in the U.S.	A	30 Apr 09	S	N	
45	043	Charitable services, namely, providing blankets to those in need	A	04 Oct 07	S	N	

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# EXHIBIT 5



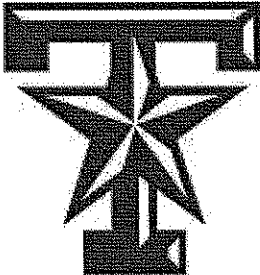
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**Word Mark** T**Goods and Services**

IC 009. US 021 023 026 036 038. G &amp; S: Video game software. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 014. US 002 027 028 050. G &amp; S: Charms; Clocks and watches; Jewelry; Ornamental pins; Rubber or silicon wristbands in the nature of a bracelet. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 016. US 002 005 022 023 029 037 038 050. G &amp; S: Adhesive note pads; Announcement cards; Art prints; Art prints comprised of digital illustrations originating from photographs; Baseball cards; Bumper stickers; Calendars; Children's books; Decals; Disposable napkins; Gift wrapping paper; Globes; Greetings cards and postcards; Murals; Notebooks; Notepads; Paper table linens; Paper tablecloths; Pencils; Pens; Photographs; Pictures; Posters; Prints; Removable tattoos; Stationery; Stickers and decalcomanias; Table mats of paper; Three-ring binders; Trading cards. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 020. US 002 013 022 025 032 050. G &amp; S: Benches; Camping furniture; Chairs; Custom furniture; Furniture; Picture frames; Pillows. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 021. US 002 013 023 029 030 033 040 050. G &amp; S: Beverage glassware; Bowls; Buckets; Coasters not of paper and not being table linen; Coffee cups, tea cups and mugs; Cooking utensils, namely, grill covers; Cooking utensils, namely, grills; Dishes; Drinking flasks; Drinking glasses; Garbage cans; Holiday ornaments of ceramic; Holiday ornaments of porcelain; Insulating sleeve holder for beverage cups; Neoprene zippered bottle holders; Pet feeding dishes; Pitchers; Plastic water bottles sold empty; Portable coolers; Salt and pepper shakers; Sports bottles sold empty;

Toothpick holders. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 024. US 042 050. G & S: Afghans; Baby bedding, namely, bundle bags, swaddling blankets, crib bumpers, fitted crib sheets, crib skirts, crib blankets, and diaper changing pad covers not of paper; Banners and flags of textile; Bed sheets; Bed spreads; **Blanket** throws; Fabrics that may or may not have printed patterns and designs thereon for use in textile applications, namely, the manufacture of apparel, upholstery, signage, flags, banners and wallpaper; Felt pennants; Golf towels; Throws. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 025. US 022 039. G & S: Athletic apparel, namely, **shirts, pants, jackets**, footwear, **hats** and caps, athletic uniforms; Athletic uniforms; Bandanas; Baseball caps and **hats**; Belts; Boots; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Coats; Fleece pullovers; Flip flops; Footwear; Golf **shirts; Hats**; Hooded sweatshirts; **Jackets**; Loungewear; Moisture-wicking sports **shirts**; Pajamas; Polo **shirts**; Rain boots; Shoes; Socks; Sweat **jackets**; Sweat **pants**; Sweat **shirts**; Sweat suits; Swim wear; T-**shirts**; Tank tops; Thongs; Ties; Undergarments; **Wearable** blankets in the nature of blankets with sleeves; Wristbands. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 027. US 019 020 037 042 050. G & S: Area rugs; Borders being wall decorations in the nature of wall coverings; Carpet tiles; Carpeting; Carpets and rugs; Door mats; Floor mats for automobiles; Vinyl wall coverings; Wall coverings of textile. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 028. US 022 023 038 050. G & S: Balls for sports; Board games; Bobblehead dolls; Christmas stockings; Christmas tree decorations; Covers for golf clubs; Divot repair tools; Dominoes; Golf bags; Golf balls; Golf putters; Plush toys; Snow globes. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

IC 041. US 100 101 107. G & S: Arranging and conducting athletic competitions; Arranging and conducting educational conferences; Audio recording and production; Book publishing; Business education and training services, namely, developing, and facilitating customized in-company leadership and executive development programs, providing executive coaching services, and providing public and in-company keynote presentations to business leaders; Sport camps. FIRST USE: 20010531. FIRST USE IN COMMERCE: 20050630

Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.01.03 - Star - a single star with five points
Serial Number	85271524
Filing Date	March 19, 2011
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Texas A&M University state university TEXAS System Building 200 Technology Way, Ste. 2079 College Station TEXAS 77845
Attorney of Record	John C. Cain
Prior Registrations	1962785;2906875
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of a star superimposed on a block letter "T".
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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## TEXAS A&amp;M AGGIES

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Services

TEXAS A&amp;M AGGIES

IC 009. US 021 023 026 036 038. G &amp; S: Video game software. FIRST USE: 19991231. FIRST USE IN COMMERCE: 19991231

IC 014. US 002 027 028 050. G &amp; S: Clocks and watches; Jewelry; Rubber or silicon wristbands in the nature of a bracelet. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 016. US 002 005 022 023 029 037 038 050. G &amp; S: Announcement cards; Bumper stickers; Decals; Note books; Notebooks; Paper table linens; Paper tablecloths; Three-ring binders. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 020. US 002 013 022 025 032 050. G &amp; S: Furniture; Pillows. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 021. US 002 013 023 029 030 033 040 050. G &amp; S: Beverage glassware; Coasters not of paper and not being table linen; Cups and mugs; Decorative plates; Portable coolers. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 024. US 042 050. G & S: Banners and flags of textile; **Blanket** throws; Felt pennants. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231IC 025. US 022 039. G & S: Athletic apparel, namely, **shirts, pants, jackets**, footwear, **hats** and caps, athletic uniforms; Bandanas; Baseball caps and **hats**; Bathing suits; Belts; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments;

Coats; Fleece pullovers; Flip flops; Footwear; Golf **shirts**; **Hats**; Hooded sweatshirts; **Jackets**; Loungewear; Moisture-wicking sports **shirts**; Pajamas; Polo **shirts**; Rain boots; Shoes; Socks; Sweat **jackets**; Sweat **pants**; Sweat **shirts**; Sweat suits; Sweatshirts; Swim wear; **T-shirts**; Tank tops; Thongs; Ties; Undergarments; **Wearable** blankets in the nature of blankets with sleeves; Wristbands. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 027. US 019 020 037 042 050. G & S: Carpets and rugs. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 028. US 022 023 038 050. G & S: Christmas stockings; Covers for golf clubs. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

IC 041. US 100 101 107. G & S: Arranging and conducting athletic competitions; Arranging and conducting educational conferences; Book publishing; Business education and training services, namely, developing, and facilitating customized in-company leadership and executive development programs, providing executive coaching services, and providing public and in-company keynote presentations to business leaders; Educating at university or colleges. FIRST USE: 19391231. FIRST USE IN COMMERCE: 19391231

**Standard  
Characters  
Claimed**

**Mark Drawing  
Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85173556

**Filing Date** November 10, 2010

**Current Filing  
Basis** 1A

**Original Filing  
Basis** 1A

**Published for  
Opposition** March 15, 2011

**Owner** (APPLICANT) Texas A&M University state university TEXAS System Building, 200 Technology Way, Ste. 2079 College Station TEXAS 77845

**Attorney of  
Record** John C. Cain

**Prior  
Registrations** 1811969;1865734;1979207;1980475;AND OTHERS

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL-2(F)-IN PART

**Live/Dead  
Indicator** LIVE

**Distinctiveness  
Limitation  
Statement** as to "TEXAS A&M"

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